



## Legislative Bulletin.....December 18, 2001

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**H.R. 2187 — To amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves. (Hefley)**

**Order of Business:** The bill will be considered under suspension of the rules on Tuesday, December 18, 2001.

**Summary:** H.R. 2187 would amend current law to allow the Secretary of the Interior to spend not more than \$1.5 million of mineral receipts from two naval oil shale reserves in Colorado to do the necessary studies for “environmental restoration, waste management, or environmental compliance” costs with respect to Oil Shale Reserve Numbered 3 (NOSR 3).

The site is an oil shale retorting facility that was formerly operated by the federal government. The issue at hand is a pile of spent shale approximately 300,000 cubic yards of material, roughly 1,000 feet long, and 350 feet high, that was deposited over 40 years from oil shale mining and processing. The Colorado Department of Public Health and Environment and the Bureau of Land Management's contractor have concluded that the pile is the source of arsenic and other heavy metals contamination leaching into surface and groundwater, according to BLM's Committee testimony on June 26, 2001.

H.R. 2187 requires the Secretary to report the results to the Congress with a “preferred alternative” for addressing environmental compliance at the site and an estimate of the cost. Under H.R. 2187, if the studies’ cost estimates are lower than the remaining money in mineral receipts treasury fund, the Secretary after 60 days, could implement the preferred alternative without further appropriation. If there is not enough money left for the project, the Secretary must await further congressional action.

**Additional Info:** NOSR 3 is a 21,000-acre reserve created by executive order in 1924 and located in the southeastern portion of the Piceance Basin in northwestern Colorado. The site was originally created as a future source of fuel supplies for the U.S. Navy and to preserve the resource. The reserves were originally managed by DOD and were eventually transferred to DOE.

In the early 1980s, private oil and gas companies began to develop natural gas reserves in the surrounding areas, and in 1985 DOE initiated a natural gas drilling program in NOSR 3. In 2000, production from 76 wells on approximately 7,000 acres at NOSR 3 was roughly 8.7 million cubic feet of gas per day. Sold competitively on the open market in 2000, those sales generated approximately \$1 million in revenues for the United States. In the FY98 DOD Authorization Act Congress specified that all receipts from sales, bonuses, and royalties be placed into a Treasury account to be used for reimbursement of environmental restoration, waste management, and environmental compliance costs incurred by the US and required that no monies received from BLM leases be shared with Colorado until costs (including environmental restoration costs) incurred by the US related to the site have been reimbursed. To date, approximately \$8.5 million in lease sales have been deposited into this special Treasury account. The account continues to grow with additional lease royalties and future sales.

**Committee waiver:** Chairman Tauzin waived his committee’s consideration of H.R. 2187, however, the Energy and Commerce Committee “reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation,” according to a letter inserted in the Committee report.

**Cost to Taxpayers:** CBO estimates that enacting H.R. 2187 would increase direct spending by about \$23 million over the 2002-2011 period, primarily for cleanup costs at an oil shale retorting facility in Colorado. Spending under the bill could be lower than that amount, however, depending on the environmental cleanup option selected by the Department of the Interior. Enacting this legislation probably would benefit the state of Colorado, according to CBO.

**Does the Bill Create New Federal Programs or Rules:** YES, the bill creates a new report that likely will result in a new Interior Department clean-up program in Colorado.

**Constitutional Authority** The Resources Committee (In Report no. 107-202) finds authority under Article I, Section 8 (Powers of Congress) of the Constitution (but does not cite a

specific clause), and Article IV, Section 3 (Power to make all needful Rules and Regulations respecting Territory or other Property belonging to the United States).

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## **H.R. 107—Cold War Interpretive Study Act (Hefley)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, December 18<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 107 would authorize appropriations of \$300,000 to require the Secretary of the Interior (in consultation with relevant agencies and organizations) to identify military and non-military sites and resources in the U.S. that are significant to the Cold War. In a report due three years after funds are appropriated, the Secretary would have to recommend possible sites for inclusion in the National Park System, sites to be newly classified as national historic landmarks, whether there should be a central repository for Cold War artifacts, and other appropriate recommendations. Cost estimates for all recommendations would have to be included in the report.

The Secretary of the Interior would also be required, within four years after funds are appropriated, to prepare and publish an interpretive handbook on the Cold War and to disseminate information gathered in the study through appropriate means in addition to the handbook.

**Bush Administration Position:** On March 8, 2001, Richard Ring, Associate Director of Park Operations and Education at the National Park Service, testified before the House Subcommittee on National Parks, Recreation, and Public Lands as follows:

“While we believe that it is wholly appropriate for the National Park Service to undertake a study of this nature, **the Administration recommends that the Committee defer action on H.R. 107** until we are able to begin making progress on the President's Initiative to eliminate the National Park Service (NPS) deferred maintenance backlog within five years. We are generally seeking a temporary moratorium on new park unit designations or authorization of new studies so that we can focus existing resources on taking care of what we now own. We also want to make sure that, when completing previously authorized studies, we closely examine the costs of acquiring, restoring, and operating a potential new park unit.” (*emphasis added*)

**Cost to Taxpayers:** The bill would authorize appropriations of \$300,000 for the study and related activities.

**Does the Bill Create New Federal Programs or Rules?:** It would mandate a new Department of Interior study for the purpose of identifying sites and resources for possible inclusion in the National Park System or possible designation as national historic landmarks.

**Constitutional Authority:** The Resources Committee (in House Report 107-220) cites constitutional authority in Article I, Section 8, but fails to reference a specific clause.

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**H.R. 3334 — To designate the Richard J. Guadagno Headquarters and  
Visitors Center at Humboldt Bay National Wildlife Refuge, California  
(Thompson, Mike)**

**Order of Business:** The bill will be considered under suspension of the rules on Tuesday, December 18, 2001.

**Summary:** The bill designates the headquarters and visitors center at Humboldt Bay National Wildlife Refuge, in Loleta, California, as the Richard J. Guadagno Headquarters and Visitors Center and notes that any reference in law shall be deemed a reference to the Richard J. Guadagno Headquarters and Visitors Center.

**Additional Background:** Richard J. Guadagno was 38 years old, and a 17-year employee of the U.S. Fish and Wildlife Service until his death aboard United Airlines Flight 93, which crashed in Pennsylvania on September 11, 2001. During his career, Mr. Guadagno worked as a biologist, wildlife inspector and as an employee of the National Wildlife Refuge System and in March 2000, was selected as the manager of the Humboldt Bay National Wildlife Refuge in Eureka, California. According to the Committee, he made the completion of the visitors center there a top priority.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 3334 would have no significant effect on the budget of the U.S. Fish and Wildlife Service, which administers the refuge.

**Does the Bill Create New Federal Programs or Rules:** No.

**Constitutional Authority** The Resources Committee (In Report no. 107-319) finds authority under Article I, Section 8 of the Constitution (Powers of Congress) but fails to cite a specific clause.

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**H. Res. 308—Expressing the sense of the House of Representatives  
regarding the establishment of a National Motivation and Inspiration Day  
(Grucci)**

**Order of Business:** The resolution will be considered under suspension of the rules on Tuesday, December 18, 2001.

**Summary:** The resolution has 9 findings including:

- Whereas motivation and inspiration have played important roles in the greatest achievements of civilized society and are characteristics common to all great leaders;
- Whereas both children and adults need motivation and inspiration in order to achieve success and happiness in their lives;
- Whereas the inspiration to define goals at school, home, and work and the motivation to achieve those goals is critical to achieving success and happiness;
- Whereas the establishment of a National Motivation and Inspiration Day would provide an opportunity for the people of the United States to focus on the importance of maintaining motivation and inspiration in their lives; and
- Whereas January 2 would be an appropriate day to establish as National Motivation and Inspiration Day

And states that the House is resolved that the day should be established and that “the President should issue a proclamation each year calling on the people of the United States to observe such a day with appropriate programs and activities.”

**Cost to Taxpayers:** None.

**Does the Bill Create New Federal Programs or Rules:** No.

**Constitutional Authority** A Committee Report citing Constitutional Authority is unavailable.

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**H. R. 3178—To authorize the Environmental Protection Agency to provide funding to support research, development, and demonstration projects for the security of water infrastructure. (Boehlert)**

**Order of Business:** The bill will be considered under suspension of the rules on Tuesday, December 18, 2001.

**Summary:** The bill authorizes \$60 million over 5 years for new EPA directed studies and programs regarding threats to the nation's water supply system. The EPA Administrator is required to establish a program of R&D to "achieve short-term and long-term improvements" to the security of water supply systems. H.R. 3178 as reported lists seven areas of to be included in this new EPA program. They include:

- research related to physical and information systems vulnerabilities (including biological, chemical, and radiological contamination), research into real-time monitoring systems to protect against these, and possible responses to, and recovery from biological, chemical, and radiological contamination of water supply systems;
- research related to protecting the physical assets and information systems;
- programs for disseminating research results to the public and to managers of water supply systems; and
- "other research and development activities the Administrator considers appropriate to improve the security of water supply systems."

The bill also specifies that nothing in this Act "limits or preempts" the EPA under other provisions of law to award grants under other laws for the types of projects in H.R. 3178.

**Cost to Taxpayers:** The bill authorizes \$60 million over 5 years and allows the funds to be available until expended. CBO estimates that implementing H.R. 3178 would increase spending by \$51 million over the 2002-2006 period, subject to appropriation.

**Does the Bill Create New Federal Programs or Rules:** YES, the bill creates a new EPA research and development grant program to research organizations, including state and local agencies, regarding threats against our nation's water supply and a report to Congress on the criteria for eligibility to receive these grants.

**Constitutional Authority:** A Committee Report citing Constitutional Authority is unavailable.

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## **H.R. 3054—True American Heroes Act (King)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, December 18<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary, as amended:** H.R. 3054 would authorize the President to strike and present national gold medals to the next of kin (or other appropriate representative) of the officers, emergency workers, employees of state and local government agencies (including the Port Authority of New York and New Jersey) and employees of the federal government who responded to and perished (or presumably perished) in the September 11<sup>th</sup> attacks on the World Trade Center.

The bill would also authorize the striking of duplicate gold medals to be presented to the Governor of New York, the Mayor of New York City, the Commissioner of the New York Police Department, the Commissioner of the New York Fire Department, the head of emergency medical services for the City of New York, and the Chairman of the Board of Directors of the Port Authority of New York and New Jersey. Additionally, a duplicate gold medal could be struck and presented for display at each precinct house, fire house, emergency response station, or other duty station or place of employment to which each individual eligible for a gold medal was assigned.

The Secretary of the Treasury would be responsible for determining which individuals and what duty stations should receive gold medals.

The bill would authorize the Secretary of the Treasury to strike and sell (at \$50 per medal) bronze duplicates of the medal described above, with proceeds going to erect a memorial for the fallen emergency responders.

H.R. 3054 would further authorize the President to strike and present national gold medals posthumously to any passengers or crew members on board United Airlines Flight 93 (which crashed in Pennsylvania on September 11<sup>th</sup>, on its way to Washington, DC) who are identified by the Attorney General as having aided in the effort to resist the hijackers on board the plane. Duplicates of this medal could also be struck in bronze and sold at an appropriate price (no details on where proceeds would go).

**Cost to Taxpayers:** Before language was added to the bill authorizing the striking of medals for United Airlines Flight 93 heroes, CBO estimated that implementing H.R. 3054 would cost \$3.8 million in mandatory spending in FY2002. The additional few medals that would be struck for the Flight 93 honorees would likely cost less than \$100,000 (based on CBO's estimate that it costs \$30,000 to design such a medal and \$5,500 per medal for the gold). Therefore, the RSC estimates that this bill would cost **\$3.9 million** in mandatory spending in FY2002.

**Does the Bill Create New Federal Programs or Rules?:** It would require the striking of two new national gold medals.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 3343—To amend title X of the Energy Policy Act of 1992 (Shimkus)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, December 18<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary, as amended:** H.R. 3343 would raise the cap on federal reimbursements (from the Uranium Enrichment Decontamination and Decommissioning Fund) for environmental clean-ups at sites licensed to process thorium from \$140 million to \$365 million. Correspondingly, the bill would increase authorizations of appropriations for the Fund by the same amount (i.e. from \$490 million to \$715 million). Authorizations for these additional payments for thorium clean-ups (on top of the original \$140 million) would be spread out over six years (\$90 million maximum in FY2002, \$55 million maximum in FY2003, and \$20 million maximums in the subsequent four fiscal years). Annual deposits into the Fund would increase from \$488.3 million to \$518.2 million, and the Comptroller General would be required to audit the Fund in order to assess current and future funding.

The bill would also authorize “such funds as may be necessary” for maintaining uranium enrichment capabilities at the pre-existing Portsmouth, Ohio facility.

**Additional Background:** Title X of the Energy Policy Act authorizes federal reimbursements for environmental clean-ups at sites that are licensed to process thorium. Though these reimbursements were capped at \$140 million during the 105<sup>th</sup> Congress, the one site (in West Chicago, IL) currently absorbing costs from thorium clean-up has already received the maximum reimbursement and anticipates to spend still more in clean-up funds. The increased authorizations in this bill would be directed to this one site.

Appropriations for thorium clean-ups come from the Uranium Enrichment Decontamination and Decommissioning Fund.

**Cost to Taxpayers:** Though no CBO cost estimate is available, H.R. 3343 explicitly authorizes an additional **\$225 million** in appropriations for thorium clean-up reimbursements over the FY2002-FY2007 period. [\$90 million would be available in FY2002, and \$205 million would be available over the FY2002-FY2006 period.]

**Does the Bill Create New Federal Programs or Rules?:** No. It increases the authorizations for the federal share of existing thorium clean-up reimbursements.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.



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## **S. 1789—Best Pharmaceuticals for Children Act (Senator Dodd)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, December 18<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** On November 15, 2001, the House passed H.R. 2887, Rep. Greenwood's version of the Best Pharmaceuticals for Children Act, by a vote of 338-86. To review the roll-call vote, click here: <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2001&rollnumber=444> On December 12, 2001, the Senate passed a similar but not identical version of this Act, S. 1789, by unanimous consent.

The following summary highlights the provisions of the House-passed bill. Any major changes or additions that S. 1789 would make to the House language are indicated in **bold red**.

The bill would extend the Food and Drug Administration's (FDA) expiring "pediatric exclusivity" provisions through October 1, 2007. ["Pediatric exclusivity" refers to a six-month period during which the FDA will not permit another manufacturer to market a generic version of a drug. Such exclusivity is granted in exchange for the manufacturer conducting studies, requested by the FDA, of the effect of drugs when taken by children.]

The bill would direct the Secretary of Health and Human Services (HHS), through the National Institutes of Health, to develop an annual list of approved drugs for which there is an approved or pending new drug application or no patent or market-exclusivity protection, and for which additional pediatric safety and effectiveness studies are needed. The bill would direct the Secretary to award contracts to entities with appropriate experience for pediatric clinical trials of such drugs and would establish an FDA contract process for related labeling changes. For the development of this annual list and the awarding of contracts, the bill would authorize appropriations of \$200 million for FY2002 and "such sums as are necessary" for each of the five subsequent fiscal years.

Additionally, the bill would:

- eliminate the user fee waiver for pediatric supplements to a human drug application;
- provide priority status for pediatric supplements;
- include neonates within the definition of pediatric studies;
- provide for dissemination of pediatric supplement information; and
- set forth requirements for the additional six-month exclusivity period for new or already-marketed pediatric drugs.

The HHS Secretary would be directed to establish an Office of Pediatric Therapeutics within the Office of the Commissioner of Food and Drugs, which shall coordinate all FDA pediatric activities, ~~and to establish the non-profit Foundation for Pediatric Research to support~~

~~research on drugs lacking exclusivity for which pediatric studies are needed.~~ The bill would further authorize several studies related to the pediatric exclusivity program and pediatric research.

The Secretary would be required to contract with the Institute of Medicine to review federal regulations, reports, and support for research involving children, with particular attention to issues of compensation, informed consent, and risk/ benefits assessments in terms of research versus therapeutic treatment. **Further, the Comptroller General (in consultation with the HHS Secretary) would be required to submit a detailed report to Congress by October 1, 2006, on the effectiveness, costs to taxpayers, and overall benefits of the pediatric exclusivity program, subject to the list of issues outlined in the bill.**

**The bill would extend the mission of the Foundation for the National Institutes of Health (42 U.S.C. 290b) to include the collection of funds for pediatric pharmacological research. Additionally, the HHS Secretary would be directed to convene and consult an advisory committee on pediatric pharmacology in order to identify research priorities for children's pharmaceuticals. The bill would also clarify and extend the authorities of the Pediatric Subcommittee of the Oncologic Drugs Advisory Committee (under HHS).**

The HHS Secretary would be instructed to "take into account adequate representation of children of ethnic and racial minorities" in the pediatric-exclusivity program. The General Accounting Office would be required to study and report on (by January 10, 2003) the extent to which children of ethnic and racial minorities are represented in pharmaceutical studies.

**Cost to Taxpayers:** Though no CBO cost estimate is available for S. 1789, its costs should be essentially similar to those for the House-passed bill, H.R. 2887:

- CBO estimated that H.R. 2887 would authorize appropriations costing taxpayers \$217 million in FY2002 and \$827 million over the FY2002-FY2006 period.
- CBO estimated that H.R. 2887 would have a net effect of reducing mandatory spending, saving taxpayers \$2 million in FY2002 and \$6 million over the FY2002-FY2006 period.
- Additionally, CBO estimated that H.R. 2887 would increase federal revenues by \$6 million in FY2002 and by \$33 million over the FY2002-FY2006 period. Many of the changes to mandatory spending and revenues are a function of changes in drug prices as a result of this bill.

The Energy & Commerce Committee disputes the CBO cost estimate for potential discretionary costs. CBO assumes that 150 drugs lacking market exclusivity or patent protection, and certain biologics, would be studied under new provisions in the bill. The committee, however, believes this estimate is too high and points to the American Academy of Pediatrics which estimates that between 30-50 drugs will need study under the fund. If the Committee is correct, the discretionary cost of the bill over five years would be reduced by \$440 million to \$387 million.

**Does the Bill Create New Federal Programs or Rules?:** Though the primary function of the bill is to extend current law that is expiring, the bill would also create new grants, an office within the FDA Commissioner's Office, and mandates for new reports.

**Constitutional Authority:** For the House-passed bill, the Energy & Commerce Committee (in House Report 107-277) cites constitutional authority in Article I, Section 8, Clause 3 (the power to regulate commerce). No committee report for the Senate-passed bill is available.

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## **H.Con.Res. 273—Reaffirming the special relationship between the United States and the Republic of the Philippines (Rohrabacher)**

**Order of Business:** The resolution is scheduled to be considered on Tuesday, December 18<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Con.Res. 273 would resolve that Congress:

- “expresses its deepest gratitude to the Government and people of the Philippines for their sympathy and support since the September 11, 2001, terrorist attacks on the United States;
- “expresses its sympathy to the current and recent Filipino victims of terrorism and their families;
- “affirms the commitment of the United States to the Republic of the Philippines pursuant to the 1951 Mutual Defense Treaty;
- “supports the Government of the Philippines in its efforts to prevent and suppress terrorism; and
- “acknowledges the economic and military needs of the Philippines and pledges to continue to assist in addressing those needs.”

**Additional Background:** According to the resolution, the Government of the Philippines has made all of its military installations available to the United States Armed Forces for transit, refueling, re-supply, and staging operations since U.S. operations in Afghanistan commenced. Also according to the resolution, active terrorists in the Philippines have close ties to Osama bin Laden and the al-Qaeda group.

In May 2001, Abu Sayaff (who has known ties to Osama bin Laden) kidnapped American citizens Martin Burnham, Gracia Burnham, and Guillermo Sobero, along with several Filipinos. Abu Sayaff eventually killed Mr. Sobero and continues to detain Martin and Gracia Burnham. (The Burnhams are Christian missionaries and are constituents of Rep. Todd Tiahrt of Kansas.)

**Cost to Taxpayers:** The resolution would authorize no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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